

State of Hawaii
DEPARTMENT OF LAND AND NATURAL RESOURCES
Division of Forestry and Wildlife
Honolulu, Hawaii 96813

December 8, 2006

Chairperson and Members
Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

Land Board Members:

**SUBJECT: ESTABLISHMENT OF KOKUA PARTNERSHIP AGREEMENT FOR
KANIAKAPUPU, NUUANU, OAHU.**

This partnership agreement is a joint effort by the Department of Land and Natural Resources (DLNR) and Aha Hui Malama O Kaniakapupu for the maintenance and ongoing stewardship of Kaniakapupu, its immediate surrounding area and the burial mounds located across of Lulumahu Stream (Exhibit D).

Kaniakapupu is located in the Luakaha area of Nuuanu Valley in the ruins of the summer palace of King Kamehameha III and Queen Kalama. Kaniakapupu sits on land designated as the Honolulu Watershed Forest Reserve and a Restricted Watershed as per Hawaii Administrative Rules Chapters 104 & 105. Kaniakapupu has also been placed on both the National and State of Hawaii's Register of Historic Places (Exhibit C).

Aha Hui Malama O Kaniakapupu is a non-profit organization dedicated to the preservation of Hawaiian cultural traditions through the conservation of native ecosystems. Because of a shortage of funding the State has been unable to implement a cultural and historic restoration plan for this most historic and culturally significant site and further has not been able to control undesired access to the site by the public. Aha Hui Malama O Kaniakapupu will create controlled access which would be obtained by permit consistent with the Restricted Watershed rules and would be supervised by a member of the HUI who could also act in a curator capacity. Additionally, the HUI would continue to maintain the grounds surrounding Kaniakapupu and the burial mounds.


The partnership agreement is for a two-year period. During this time Aha Hui Malama O Kaniakapupu proposes to remove weeds and debris from the ground and act as tour and educational guides for permit applicants.

DOFAW encourages community involvement and assistance with the care, management, and interpretation of the natural and cultural resources in their jurisdiction. Aha Hui Malama O Kaniakapupu has indicated a willingness to carry out their responsibilities as volunteers and work closely with the Department to insure that the guidelines established in the partnership agreement are followed.

RECOMMENDATION:

That the Board approve the Kokua partnership agreement between the State of Hawaii and Aha Hui Malama O Kaniakapupu subject to approval as to form by the Attorney General's Office.

Respectfully submitted,


PAUL J. CONRY
Administrator

APPROVED FOR SUBMITTAL:


PETER T. YOUNG, Chairperson

Attachment: Kokua Partnership Agreement.

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

KOKUA PARTNERSHIP AGREEMENT

THIS AGREEMENT, executed on the respective dates indicated below, is effective as of _____, 20__, between the STATE OF HAWAII (hereinafter “State”), by its Chairman of the Board of Land and Natural Resources, whose address is 1151 Punchbowl Street, Honolulu, Hawaii 96813, and AHA HUI MALAMA O KANIAKAPUPU (hereinafter the “HUI” also referred to herein as the “KOKUA PARTNER”), by its President Melvin Lonokaiolohia Kalahiki, whose address is 45-705 Kamehameha Highway #204, Kaneohe, Hawaii 96744.

BACKGROUND

Located in the Luakaha area of Nu‘uanu Valley, Kaniakapupu is the ruins of the summer palace of King Kamehameha III (Kauikeaouli) and Queen Kalama. Kaniakapupu sits on land managed by the State of Hawaii, Division of Forestry and Wildlife, Department of Land and Natural Resources as the Honolulu Watershed Forest Reserve and a Restricted Watershed as per Hawaii Administrative Rules chapters 104 and 105. The structure was completed in the 1840’s and is reportedly built on top of an ancient heiau. In the 1840’s, after sovereignty was returned to the Kingdom of Hawaii by the British, Kaniakapupu was the site of at least two giant celebrations hosted by the King and with guests in attendance in excess of 10,000 people. The event was known as Restoration Day or, Ho‘i Ho‘i Ea. See photos attached as Exhibit “A”.

Luakaha and its immediate surrounds are sacred grounds. During the famous Battle of Nu‘uanu in 1794, the forces of King Kamehameha the Great engaged the

warriors of Kalanikupule at Luakaha, and some say this was a turning point of that great struggle. Today, stone ahu or mounds sit just across Lulumahu Stream, marking what many believe to be grave markers of fallen warriors. On November 13, 2002, the burial mounds were brought to the attention of the Oahu Island Burial Council. After full discussion, several Motions were adopted which would assist in the preservation of Kaniakapupu and the burial mounds. See Minutes of Oahu Island Burial Council dated November 13, 2002, items III C attached hereto as Exhibit "B". The gravesites, the location of the original heiau known as Kaniakapupu, and the placement of the King's summer palace all attest to the significance of this very special and very Hawaiian place.

Kaniakapupu has been placed on both the National and State of Hawaii's Register of Historic places. Exhibit "C".

This AGREEMENT addresses the maintenance and ongoing stewardship of Kaniakapupu, its immediate surrounding area and the burial mounds located across of Lulumahu Stream which are further delineated in the map attached hereto as Exhibit "D".

INTRODUCTION

The State of Hawaii owns the land underlying Kaniakapupu and the burial sites across Lulumahu Stream and has managed the area consistent with the management plans for the Honolulu Watershed Forest Reserve and Restricted Watershed of which it is a part. Because of a serious and sustained shortage of funding and staff, the State has been unable to implement a cultural and historic restoration plan for this most historic and culturally significant site, and further has not been able to control undesired access to the site by the public, or provide for the limited and controlled desired access by school

children and Hawaiian groups eager to visit and learn about Kaniakapupu and the role this historic site played in the Battle of Nuʻuanu.

For years, the maintenance of this area has been carried out by a nonprofit volunteer community group comprised primarily of Hawaiians who gather on weekends with machetes, shovels and plastic trash bags to honor their kupuna and aliʻi. The group, known as AHA HUI MALAMA O KANIAKAPUPU, is headed by kupuna Melvin Lonokaiolohia Kalahiki, and was given an informal stewardship by the State by way of a letter dated March 1, 2002 and attached as Exhibit “E”.

Because there is no controlled access, hunters, hikers and other members of the public have been known to come on to the site and damage the fragile ruins and surrounding structures. The State has not issued permits to visit the site because of limitations needed to protect the restricted watershed, and potential safety hazards and the lack of personnel to monitor controlled access. The arrangements made herein with the KOKUA PARTNER will create controlled access which would be obtained by permit consistent with the Restricted Watersheds rules and which would be supervised by a member of the HUI who could also act in a curator capacity. Additionally, the HUI would continue to maintain the grounds surrounding Kaniakapupu and the burial mounds. This AGREEMENT would also provide reasonable and appropriate recognition and gratitude to the KOKUA PARTNER on account of the significant labor and improvements its members are contributing to reclaim, preserve, and improve this historic and culturally significant site which will benefit all of Hawaii by preserving our history and culture and by serving as an educational tool for Hawaii’s children.

WORK TO BE DONE BY KOKUA PARTNER

The KOKUA PARTNER will assist the STATE with the maintenance of the Kaniakapupu and burial mound grounds as follows:

Organize and conduct regular workdays to maintain the grounds, including:

1. Removal of weeds and debris from the grounds
 - Cutting back and maintaining and repairing access trails pursuant to methods approved by DLNR.
 - Herbicides with dissipation such as Round-Up may be used to control weeds and vegetation growth.
 - Weed-eaters, machetes, lawnmowers, and other hand tools may be used.
 - The specifics of the vegetation removal shall be discussed on site with the STATE HISTORIC PRESERVATION DIVISION (SHPD) and DIVISION OF FORESTRY AND WILDLIFE (DOFAW) representatives prior to the initiation of this AGREEMENT.
2. Act as tour and education guides for permit applicants wishing to bring groups to the sites, such as a limited number of elementary school classes and Hawaiian Civic Clubs, consistent with the Restricted Watershed Rules.
 - Coordinate permit application process with the STATE - DLNR for permit issuance to legitimate organized users of the cultural sites, including educational use and the performing of cultural ceremony.

- Work with the STATE in the planning and placement of a perimeter fence to contain and protect the sites. SHPD and DOFAW must concur with the placement of a perimeter fence as provided in Section 6E-8, HRS.

Additional work may be done by mutual agreement between the STATE and the KOKUA PARTNER.

SPECIAL CONDITIONS

The KOKUA PARTNER shall not:

1. Permit commercial activity, including the sale of any items or advertising of commercial products, to be conducted in conjunction with the maintenance of the site;
2. Undertake or permit fundraising activities at the site;
3. Permit participants to possess, display, use or consume alcoholic beverages or illegal drugs at the site;
4. Cause any significant disruption which would be inappropriate at the site;
5. Contravene any condition detailed in Chapter 104, Subsection 2-Public Use.

The KOKUA PARTNER may:

1. Assist in coordinating volunteer efforts that may be from other organizations or individuals. Such other groups or individuals may participate in maintenance activities without being required to become a member of the KOKUA PARTNER.

RESPONSIBILITIES OF THE STATE

The assistance of the STATE through the Division of Forestry and Wildlife, Department of Land and Natural Resources will review and issue Restricted Watershed permits as appropriate for access to the site, and may assist with large clearing and hauling projects and herbicide treatments. The STATE will fund and assist with the placement of a perimeter fence to protect the cultural sites. Any proposed cleaning that will require methods other than hand cleaning by non-powered tools must be approved by SHPD and DOFAW prior to the commencement of any work.

CHECKS TO ENSURE PROPER MAINTENANCE

1. The KOKUA PARTNER and the STATE through DLNR-DOFAW will issue permits for when volunteer work will be performed. The STATE will monitor the progress of the maintenance and maintain close communication with the KOKUA PARTNER through the permit issuance process. The KOKUA PARTNER will notify the STATE if a schedule change and permit modification is necessary.
2. The STATE through DLNR-State Parks, will make two (2) field checks per year to see that proper maintenance is being done. If it is determined that proper maintenance is not taking place, the STATE will notify the KOKUA PARTNER in writing of the problem(s). The KOKUA PARTNER will be allowed a reasonable time to correct the problem. If the KOKUA PARTNER fails to correct the problem, the STATE may revoke this AGREEMENT.

CHECKS TO ENSURE PROPER SAFETY

1. The KOKUA PARTNER agrees to perform its volunteer services in a safe and reasonable manner. It is the KOKUA PARTNER'S responsibility to become acquainted with the procedures and tools necessary to perform these tasks and to monitor the actions of their group of volunteers.
2. Prior to commencement and periodically throughout the AGREEMENT, the KOKUA PARTNER will conduct safety briefings with their volunteers to ensure that they are aware of any potential safety hazards. The KOKUA PARTNER will have all volunteers sign liability waivers and instruct all volunteers in the proper method of performing their tasks.
3. The STATE through the DLNR is available to assist in providing safety presentations and written documentation on safety and proper methods of performing the work. An on-site evaluation, to discuss procedures, can be scheduled prior to the commencement of this AGREEMENT.

RECOGNITION OF KOKUA PARTNER'S CLEANING, MAINTENANCE AND CURATOR EFFORTS

In recognition of the efforts and resources offered by the KOKUA PARTNER to clean, maintain and protect Kaniakapupu and the burial mounds, the STATE, through the DLNR, will provide a perimeter fence for Kaniakapupu and will give to the KOKUA PARTNER, in coordination with the STATE, the right to control access through a permitting process that is approved by the STATE. The STATE will also work with the KOKUA PARTNER in obtaining the necessary permits to restore Kaniakapupu.

COORDINATION OF ACTIVITIES

The KOKUA PARTNER shall designate a person to coordinate with the STATE the activities of the KOKUA PARTNER and issuance of permits under this AGREEMENT. The KOKUA PARTNER shall be responsible for transmitting to the STATE the names of the individuals who will be performing services under this AGREEMENT and supervising the activities of those individuals permitted under this agreement.

INDIVIDUAL MEMBERS, VOLUNTEERS AND INVITEES OF KOKUA PARTNER

The members, volunteers and invitees of the KOKUA PARTNER who perform the KOKUA PARTNER'S responsibilities under this AGREEMENT will be deemed to be volunteers for purposes of Chapter 90, HRS. As such, these persons when acting as volunteers are entitled to be regarded as "employees of the State" solely for the purposes of Chapter 662, HRS.

TERM OF AGREEMENT

The term of this AGREEMENT is for two (2) years after its effective date. Either party may terminate this AGREEMENT after providing the other party with thirty (30) day written notice.

PUBLICITY

During the term of this AGREEMENT, the STATE may post at the Kaniakapupu site a sign or signs that recognize the contributions of the KOKUA PARTNER.

COMPLIANCE WITH LAW

The KOKUA PARTNER shall comply with all applicable federal, state, and county laws, ordinances, codes, rules and regulations, as the same may be amended from

time to time, that in any way affect the KOKUA PARTNER'S performance of this AGREEMENT.

RULES OF DEPARTMENT OF LAND AND NATURAL RESOURCES

Any applicable rules of the DLNR, which are set forth in the Hawaii Administrative Rules, shall apply to the implementation of this AGREEMENT.

MODIFICATION OF AGREEMENT

This AGREEMENT may be amended only in writing signed by both the STATE and the KOKUA PARTNER.

REPORTING REQUIREMENTS

Six months after the effective date of this AGREEMENT, the KOKUA PARTNER shall provide to the STATE a written summary of its activities under the AGREEMENT including discussions of its accomplishments, difficulties, goals for the remainder of the AGREEMENT, and other relevant information. Every six months thereafter during the term of this AGREEMENT, the KOKUA PARTNER will make such written reports to the STATE.

IN VIEW OF THE ABOVE, the parties execute this AGREEMENT by their signatures, on the dates below, to be effective as of the date first above written.

STATE

(Signature)

(Print Name)

(Print Title)

(Date)

AHA HUI MALAMA O KANIAKAPUPU

(Signature)

(Print Name)

(Print Title)

(Date)

APPROVED AS TO FORM:

Deputy Attorney General